

**COLLECTIVE INVESTMENT SCHEMES SOURCEBOOK (AMENDMENT NO 8)  
INSTRUMENT 2013**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137T (General supplementary powers);
    - (c) section 139A (Power of the FCA to give guidance);
    - (d) section 247 (Trust scheme rules);
    - (e) section 248 (Scheme particulars rules);
    - (f) section 261I (Contractual scheme rules); and
    - (g) section 261J (Contractual scheme particulars rules);
  - (2) regulation 6(1) (FCA rules) of the Open-Ended Investment Companies Regulations 2001 (SI 2001/1228); and
  - (3) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 26 July 2013.

**Amendments to the Handbook**

- D. The Senior Management Arrangements, Systems and Controls sourcebook (SYSC) is amended in accordance with Annex A to this instrument.
- E. The Collective Investment Schemes sourcebook (COLL) is amended in accordance with Annex B to this instrument.

**Notes**

- F. In Annex B to this instrument, the “note” (indicated by “**Note:**”) is provided for the convenience of readers but does not form part of the legislative text.

**Citation**

- G. This instrument may be cited as the Collective Investment Schemes Sourcebook (Amendment No 8) Instrument 2013.

By order of the Board of the Financial Conduct Authority  
25 July 2013

**Annex A****Amendment to the Senior Management Arrangements, Systems and Controls  
sourcebook (SYSC)**

In this Annex, striking through indicates deleted text.

**6.1 Compliance**

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6.1.4A R ...

(2) In SYSC 6.1.4AR(1) compliance means compliance with the rules in:

...

(b) *COLL* (Collective Investment Schemes sourcebook) ~~and *CIS*~~  
(~~Collective Investment Schemes sourcebook~~) (where  
appropriate);

...

**Annex B**

**Amendment to the Collective Investment Schemes sourcebook (COLL)**

In this Annex, underlining indicates new text and striking through indicates deleted text.

**3.2 The instrument constituting the scheme**

...

Table: contents of the instrument constituting the scheme

3.2.6 R ...

...	
	<b>Property Authorised Investment Funds</b>
7B	For a <del>property authorised investment fund</del> , a statement that:
	(1) <del>it is a property authorised investment fund;</del>
	(2) <del>no body corporate may seek to obtain or intentionally maintain a holding of more than 10% of the net asset value of the fund; and</del>
	(3) <del>in the event that the authorised fund manager reasonably considers that a body corporate holds more than 10% of the net asset value of the fund, the authorised fund manager is entitled to delay any redemption or cancellation of units in accordance with 18 if the authorised fund manager reasonably considers such action to be:</del>
	<del>(a) necessary in order to enable an orderly reduction of the holding to below 10%; and</del>
	<del>(b) in the interests of the unitholders as a whole. [deleted]</del>

...

**4.2 Pre-sale notifications**

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Table: contents of the prospectus

4.2.5 R ...

...	
	<b>Authorised fund</b>

2	A description of the <i>authorised fund</i> including:	
	...	
	(h)	if it is not an <i>umbrella</i> , a statement that it is a <i>feeder UCITS</i> , a <i>feeder NURS</i> , <del>or</del> a <i>fund of alternative investment funds</i> or a <i>property authorised investment fund</i> , where that is the case.
	...	
<b>Umbrella Schemes</b>		
2B	For a <i>UCITS scheme</i> or <i>non-UCITS retail scheme</i> which is an <i>umbrella</i> , a statement detailing whether each specific <i>sub-fund</i> is a <i>feeder UCITS</i> , a <i>feeder NURS</i> , <del>or</del> a <i>fund of alternative investment funds</i> or a <i>property authorised investment fund</i> , as appropriate.	
<b>Investment objectives and policy</b>		
3	The following particulars of the investment objectives and policy of the <i>authorised fund</i> :	
	...	
	(ca)	<u>for an <i>authorised fund</i> that has indicated in its name, investment objectives or fund literature (including in any <i>financial promotions</i> for the fund), through use of descriptions such as ‘absolute return’, ‘total return’ or similar, an intention to deliver positive returns in all market conditions (and where there is no actual guarantee of such returns), additional statements in the <i>authorised fund’s</i> investment objectives specifying:</u>
		(i) <u>that capital is in fact at risk;</u>
		(ii) <u>the investment period over which the <i>authorised fund</i> aims to achieve a positive return; and</u>
		(iii) <u>there is no guarantee that this will be achieved over that specific, or any, time period;</u>
	...	
<b>Property Authorised Investment Funds</b>		
22A	For a <i>property authorised investment fund</i> , a statement that:	
	(1)	<del>it is a <i>property authorised investment fund</i>; [deleted]</del>
	...	
	...	

[Note: A transitional provision applies to row 3(ca) of this table: see COLL TP 1.28.]

...

### 5.3 Derivative exposure

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~~CESR~~ ESMA guidelines

- 5.3.11 G *Authorised fund managers* are advised that both CESR and its successor body, the European Securities and Markets Authority (ESMA) have issued guidelines which, in accordance with the *UCITS implementing Directive*, *authorised fund managers* should comply with in applying the *rules* in this section:

Guidelines: Risk Measurement and the Calculation of Global Exposure and Counterparty Risk for UCITS (CESR/10-788)

<http://www.esma.europa.eu/content/Guidelines-Risk-Measurement-and-Calculation-Global-Exposure-and-Counterparty-Risk-UCITS>

Guidelines to competent authorities and UCITS management companies on risk measurement and the calculation of global exposure for certain types of structured UCITS (~~ESMA/2011/112~~) (~~ESMA/2012/197~~)

~~<http://www.esma.europa.eu/content/Final-report-Guidelines-competent-authorities-and-UCITS-management-companies-risk-meas-ureme>~~

<http://www.esma.europa.eu/system/files/2012-197.pdf>

...

### 7.7 UCITS mergers

...

UCITS Regulations 2011

- 7.7.6 G ...

(3) ~~A summary of how the regime for *UCITS mergers* operates is to be found in *COLLG*. [deleted]~~

...

Information to be given to unitholders

- 7.7.10 R ...

- (3) The information *document* to be provided to the *unitholders* of the *merging UCITS* and the *receiving UCITS* under (1) must include the following:

...

- (c) any specific rights *unitholders* have in relation to the proposed *UCITS merger*, including but not limited to:

...

- (ii) the right to obtain a copy of the report of the independent auditor or the *depository* on request prepared for the purposes of regulation 11 of the *UCITS Regulations 2011* or, if applicable, the equivalent national implementing measure of the *UCITS Home State*;

...

...

...

## 9.4 Facilities in the United Kingdom

...

### Documents

- 9.4.2 R (1) The *operator* of a *recognised scheme* must maintain facilities in the *United Kingdom* for any *person*, for inspection (free of charge) and for the obtaining (free of charge, in the case of the *documents* at (c), ~~and~~ (d) and (e), and otherwise at no more than a reasonable charge) of copies in English of:

...

...

...

## TP 1 Transitional Provisions

### TP 1.1

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
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...					
<u>28</u>	<u>COLL 4.2.5R (3)(ca)</u>	<u>R</u>	<u>The authorised fund manager need not comply with COLL 4.2.5R(3)(ca) during the application period of this transitional provision, unless it makes any other change to the prospectus of the authorised fund during that period.</u>	<u>From 26 July 2013 to 26 January 2014</u>	<u>26 July 2013</u>